IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28/03/2003

CORAM

THE HONOURABLE MR. JUSTICE P.K. MISRA

WRIT PETITION No.5194 OF 2003
AND
WPMP.NO.6647 OF 2003

Balusamy,
S/o. Perumal .. Petitioner

-Vs-

The District Collector,
Sivaganga District,
Sivaganga. .. Respondent

Petition filed under Article 226 of the Constitution of India for the issuance of Writ of Certiorarified Mandamus as stated therein

For Petitioner : Mr.V. Rama Jagadeesan

For Respondent : Mr.V. Subbarayan

:J U D G M E N T

The petitioner has filed this writ petition to quash the order passed by the respondent dated 7.2.2003 in Roc.No.A2/6331/2000 directing the petitioner not to discharge the duties of the President, Nenjathur Village Panchayat, Sivaganga District.

2. At the time of admission, the counsel for the respondent was directed to obtain instructions. Subsequently, the matter was adjourned from time to time. Ultimately when the matter was taken up on 19.3.2 003, learned counsel appearing for the respondent has produced a copy of the order dated 3.3.2003 according sanction under Section 19(1)(c) of the Prevention of Corruption Act, 1988 and under Section 230 of the Tamil Nadu Panchayat Act, 1994.

3. Learned counsel appearing for the respondent has submitted that charge-sheet in the case would be filed within a short period. Since no other factual dispute was involved, on consent of the counsels appearing, the writ petition was heard and reserved for judgment.

4. On an earlier occasion, similar order has been passed by the Collector on 2.11.2000 in respect of the very same petitioner. W.P.No.18 903

of 2000 was filed by the petitioner challenging the said order. After hearing the counsels for both the parties, the writ petition was allowed with the following observation:-

 . . .2. I am not able to find out any provision giving power to the Collector to pass the impugned order even before the enquiry is over and charge-sheet filed.

3. Hence, the impugned order is set aside, but, this will not prevent the Collector to pass fresh order in accordance with law at the appropriate stage. . . .

5. It is to be noticed that the said order had not been challenged by the respondent. In the said order it was specifically indicated by the Hon ble Justice K. Govindarajan I am not able to find out any provision giving power to the Collector to pass the impugned order even before the enquiry is over and charge-sheet filed.
In the present case, it is not disputed that by the time the present impugned order was passed, charge-sheet was not filed. It is obvious that the order passed on 2.11.2000 had been quashed in W.P.No.18903 of 2000 on the ground that such order had been passed before the enquiry was completed and charge-sheet was filed, was again repeated by the Collector even though charge-sheet was not filed. In other words, without following the observations made in the previous writ petition, the present order seems to have been mechanically passed. In such view of the matter, the impugned order cannot be sustained and is hereby quashed. It is however made clear that quashing of the impugned order will not stand in the way of the Collector to pass any order in accordance with law.

7. In the result, the writ petition is allowed and the impugned order dated 7.2.2003 is quashed. No costs. Consequently, WPMP.No.6647 of 2003 is closed.

Index : Yes
Internet : Yes
dpk

To
The District Collector,
Sivaganga District,
Sivaganga.